S.B. Civil Second Appeal No.190 Of 1986.

Ishwari Prasad Versus Bhonre Lal & Others.

Date Of Order ::: 02.11.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Dr. P.C. Jain, Counsel for plaintiff-appellant.
Mr. R.P. Singh, Counsel for defendant-respondents

By the Court :

Heard learned counsel for both the parties.

Learned counsel for the defendant-respondents Mr. R.P. Singh, submits that the defendant-respondent Nos.2, 3 and 4 namely; Nand Kishore, Rameshwar Prasad and Smt. Jamvanti Devi, expired long back and this fact was brought to the notice of this Court in the presence of Counsel for the plaintiff-appellant on 12.08.2004.

Learned counsel for the plaintiff-appellant took time on that day to verify the aforesaid fact. The case was adjourned for one month. A period of two-years-&-two-months has already been expired, but no application for substitution of legal heirs and representatives of the deceased respondents has been

filed till date. In these circumstances, the appeal abates automatically. Looking to the nature of the suit and the controversy involved in the present case, it is clear that the entire appeal against all the respondents is liable to be dismissed in view of the fact that the appeal has already been abated against the respondent Nos. 2, 3 and 4.

Consequently, the second appeal is dismissed as abated.

(Narendra Kumar Jain) J.

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